

## **EXHIBIT #1**

Brandon Pickens Deposition

Pages 16-29

Page 31

---

Case No. CV-085-FHS

Brandon Pickens  
December 12, 2012

Aldaba vs. Marshall County  
Case No. CJ-11-81

Page 16

1                   At that point did you know anything at  
2 all about the patient or the problem?

3                   A    Not until I began speaking with him.

4                   Q    Who else did you see standing around?

5                   A    I believe there was another male nurse,  
6 and then another female nurse or doctor. I'm not  
7 for sure.

8                   Q    And this was outside of one of the  
9 hospital rooms?

10                  A    Yes.

11                  Q    Were there any other law enforcement  
12 officers there?

13                  A    Not at that time, no.

14                  Q    Who's the first person you came to that  
15 you talked to or got information from?

16                  A    As I walked up I immediately started  
17 talking to the doctor, Dr. Conley.

18                  Q    Where was the patient?

19                  A    In the -- in the room; I believe Room  
20 104.

21                  Q    So at this point you had not seen the  
22 patient?

23                  A    No, sir.

24                  Q    Tell me what Dr. Conley tells you.

25                  A    He told me the name, that Mr. Leija

Brandon Pickens  
December 12, 2012

Aldaba vs. Marshall County  
Case No. CJ-11-81

Page 17

1 was -- was in the room. He was undergoing  
2 treatment. He -- he appeared to be on some type  
3 of drug. He --

4 Q That's what he told you?

5 A Yes.

6 That there was a nurse that had left  
7 for restraints. I remember -- I remember him  
8 talking about him needing to be restrained. And  
9 Dr. Conley told me the man could not leave the  
10 hospital or he would die.

11 And I only talked to him just a few --  
12 90 seconds at the most, and the door opened.

13 Q He told you that if he left the  
14 hospital he would die?

15 A Yes, sir.

16 Q Are those -- I mean, how accurate do  
17 you think you are in remembering his exact words?

18 A 100 percent.

19 Q Do you feel that's precisely what he  
20 told you?

21 A Yes, sir.

22 Q Did you ask him what the condition was  
23 of the patient?

24 A I -- I didn't -- I didn't make it that  
25 far. The door opened prior to much information.

Brandon Pickens  
December 12, 2012

Aldaba vs. Marshall County  
Case No. CJ-11-81

Page 18

1 Q Say that again?

2 A The door opened to the room prior to  
3 very much information. We didn't speak very  
4 long.

5 Q When the door opened, what happened?

6 A Mr. Leija came out of the room and went  
7 south. He didn't acknowledge me or anyone else.  
8 He just proceeded to walk to leave the hospital.

9 Q South. And was that away from you?

10 A Yes, sir.

11 Q Where were you standing when he walked  
12 out of the room?

13 A Just a few feet from the door.

14 Q Have you seen the video from the  
15 hospital?

16 A Yes.

17 Q When Mr. Leija walked out of the room  
18 did he say anything as he walked past you?

19 A No, sir.

20 Q Did you say anything to him?

21 A No, sir.

22 Q What's the next thing that happened?

23 A I cut -- basically, cut him off in the  
24 hallway.

25 Q Why did you do that?

Brandon Pickens  
December 12, 2012

Aldaba vs. Marshall County  
Case No. CJ-11-81

Page 19

1           A     Because the doctor said that he didn't  
2     need to leave or he would die.

3           Q     Had Mr. Leija committed any crimes at  
4     that point?

5           A     No, sir.

6           Q     Did you have any reason to think that  
7     he had committed any crimes at that point?

8           A     I had reason to believe that he could  
9     have tore things up in the hospital. I believed  
10    I was dealing with a mental patient.

11          Q     Now, you had -- okay.

12          I want to make sure that I'm clear  
13    about everything you can remember that Dr. Conley  
14    told you in that 90 seconds.

15          He said -- he told you that he was sick  
16    and that he would die if he left the hospital.  
17    Then he told you that he possibly was on -- acted  
18    as if he was on some sort of drugs. Is that  
19    right?

20          A     Yes.

21          Q     And what else did he tell you?

22          A     That's basically all I remember.

23          Q     And when he walked out of the room he  
24    didn't say anything to you; the patient?

25          A     No, sir.

Brandon Pickens  
December 12, 2012

Aldaba vs. Marshall County  
Case No. CJ-11-81

Page 20

1 Q He didn't say anything to anybody, did  
2 he?

3 A No, sir.

4 Q Between the time that you went to stop  
5 him, what did he do, besides walk away?

6 A That's it.

7 Q And whenever you -- you said you walked  
8 around him an you cut him off. He did stop at  
9 that point. Is that right?

10 A Yes.

11 Q What did you say to him? What's the  
12 first thing that you said to him?

13 A I don't remember the very first thing I  
14 said to him.

15 Q Something along the lines of stop?

16 A Yeah. Yes, sir.

17 Q And he followed that order?

18 A Yes.

19 Q What's the next thing that you remember  
20 him saying or you saying, whatever happened next?

21 A He said that they were trying to kill  
22 him, as far as hospital staff. I told him we  
23 needed to go back to his room and we would talk.  
24 He said he wanted his wife. He said he wanted to  
25 leave the hospital several times. I told him

Brandon Pickens  
December 12, 2012

Aldaba vs. Marshall County  
Case No. CJ-11-81

Page 21

1 that we could go back to the room. He could  
2 speak with his wife there. I told him I would  
3 personally find his wife if he would go back to  
4 his room.

5 Q Why didn't you let him leave when he  
6 said he wanted to leave?

7 A Because at that point in time the  
8 doctor told me that he did not need to leave. I  
9 was concerned for his -- for his health, and I  
10 didn't want him walking out of the hospital and  
11 dying.

12 Q What authority did you feel like, as a  
13 police officer, you had to stop him at that  
14 particular moment?

15 A It was my job to save his life. I did  
16 the best I knew how.

17 Q So, in your mind, he didn't have the  
18 right to leave the hospital if his health was in  
19 danger?

20 A No, sir.

21 Q Other than what Dr. Conley told you,  
22 did you have anything else that you were basing  
23 that determination on?

24 A His look.

25 Q As he walked away from you?

Brandon Pickens  
December 12, 2012

Aldaba vs. Marshall County  
Case No. CJ-11-81

Page 22

1           A    When I first -- when I cut him off,  
2   when I faced him and he faced me, the look that  
3   he had.

4           Q    What was that?

5           A    I call it a thousand-yard stare. It  
6   was like he was looking at me, but he looked  
7   right through me, if that makes sense.

8           Q    What else, besides the way he looked?

9           A    That's it.

10          Q    Okay. So you told him that he needed  
11   to go back to his room, that you would try to  
12   find his wife. What happened next?

13          A    During, I believe, that time was about  
14   the time the deputies showed up. He proceeded  
15   again down the hallway. I -- I believe I stopped  
16   him again.

17               He pulled the -- I don't believe there  
18   were actually needles. I believe it was gauze  
19   with tape over it. He pulled that out.

20          Q    Let me stop you there.

21               The second time that you said you  
22   stopped him, at that point had he committed any  
23   crimes in your presence?

24          A    No, sir.

25          Q    Had you been told that he'd committed

Brandon Pickens  
December 12, 2012

Aldaba vs. Marshall County  
Case No. CJ-11-81

Page 23

1 any crimes?

2 A No, sir.

3 Q What was the basis for stopping him the  
4 second time?

5 A He -- his health.

6 Q You believed it was --

7 A Which, he -- he was -- he was told to  
8 stop, and then proceeded again.

9 Q Now, do you believe as a law  
10 enforcement officer you can stop -- you have the  
11 right to stop people if they've not committed  
12 crimes that you've seen?

13 A I believe I have the right to know  
14 what's going on when I'm called.

15 Q And that includes to stop people from  
16 leaving that haven't committed any crimes in your  
17 presence?

18 A For investigative purposes, yes.

19 Q What crime were you investigating?

20 A I wasn't investigating a crime at that  
21 point.

22 Q Did he have any weapons on him?

23 A No, sir.

24 Q Had you been told that he had any  
25 weapons?

Brandon Pickens  
December 12, 2012

Aldaba vs. Marshall County  
Case No. CJ-11-81

Page 24

1 A No, sir.

2 Q Could you see both of his hands clearly  
3 to know that he didn't have any weapons in his  
4 hands?

5 A Yes.

6 Q Was he wearing a hospital gown?

7 A Yes.

8 Q Was there any pockets on the hospital  
9 gown in which a weapon could have been?

10 A I don't know.

11 Q Did you have any concerns at all that  
12 he had a weapon?

13 A Not at that time, no.

14 Q Okay. Did you have a warrant for his  
15 arrest?

16 A No.

17 Q Did you have -- had you talked to a  
18 judge or gotten any sort of authority from a  
19 judge to stop him?

20 A No.

21 Q What happened next?

22 Now, in the line of things, you've  
23 stopped him for the second time. Let's just pick  
24 up there.

25 You stopped him a second time, and what

Brandon Pickens  
December 12, 2012

Aldaba vs. Marshall County  
Case No. CJ-11-81

Page 25

1       happened from that point forward?

2           A    He -- he became angry, very angry; not  
3                    that he wasn't angry before.

4           Q    So he was angry before?

5           A    Yes.

6           Q    Okay. When was he angry before?

7           A    Apparently, before I was called.

8           Q    You didn't ever see him angry before  
9                   the second time that you stopped him, though, did  
10                  you?

11           A    He -- he was angry --

12                    MR. ANDERSON: Object to the  
13                  form of the question.

14                    THE WITNESS: -- when I got  
15                  there.

16           BY MR. BEAVER:

17           Q    Well, I asked you earlier what you knew  
18                  about the situation, and you told me that there  
19                  was a patient who was unruly, correct?

20           A    Yes.

21           Q    You didn't tell me that the patient was  
22                  angry or you were told the patient was angry, did  
23                  you?

24           A    No, sir.

25           Q    You weren't told that the patient was

Brandon Pickens  
December 12, 2012

Aldaba vs. Marshall County  
Case No. CJ-11-81

Page 26

1 angry, were you?

2 MR. MCKELVEY: Object to the  
3 form.

4 BY MR. BEAVER:

5 Q Okay. Were you ever told the patient  
6 was angry before you got to the hospital?

7 A I would think they would coincide.

8 Q Unruly and angry?

9 A Yes.

10 Q So it's an assumption that you had, not  
11 based on something that you were told?

12 MR. MCKELVEY: Object to the  
13 form.

14 MR. ANDERSON: Same  
15 objection.

16 BY MR. BEAVER:

17 Q Did you make the assumption that he was  
18 angry?

19 MR. MCKELVEY: Object to the  
20 form.

21 THE WITNESS: Yes.

22 BY MR. BEAVER:

23 Q Okay. You stopped him a second time.  
24 He appeared angry. And what happened?

25 A He took the -- the gauze and tape off

Brandon Pickens  
December 12, 2012

Aldaba vs. Marshall County  
Case No. CJ-11-81

Page 27

1 and began bleeding everywhere. Raised his hands  
2 and began yelling, this is my blood. I took that  
3 as a -- he was going to use his blood as a  
4 weapon.

5 I didn't know what he had, if it was  
6 something I could get, so I stepped away from  
7 him.

8 Q He took the gauze off of where?

9 A His forearm area.

10 Q Which arm?

11 A Both. I believe there were three; two  
12 on his one arm and one on the other.

13 Q You said he was bleeding everywhere.  
14 Now, that's a big word. I want to be clear about  
15 what you mean by "everywhere".

16 Was his arm soaked in blood? Were his  
17 clothes soaked in blood? Describe the blood.

18 A There was a lot of blood, but he wasn't  
19 saturated in blood; a fairly steady stream of  
20 blood out of each arm.

21 Q Okay. Were the other officers, Deputy  
22 Beebe and Atnip, there when he raised his hands  
23 over his head?

24 A Yes.

25 Q And you haven't left out anything, as

Brandon Pickens  
December 12, 2012

Aldaba vs. Marshall County  
Case No. CJ-11-81

Page 28

1 far as any statements that he made or that you  
2 made to him? You've told me everything that  
3 happened up until the time that he raised his  
4 hands above his head and said, this is my blood?

5 A As far as I know, yes.

6 Q Okay. And you took that as a -- how  
7 did you take that? I don't want to put words in  
8 your mouth.

9 A That was aggressive. I believe that  
10 was very aggressive.

11 Q Why? Why was that aggressive?

12 A I believe that his blood could be used  
13 as a weapon.

14 Q Do you believe that that's what he was  
15 threatening to do to you at that time?

16 A Yes.

17 Q Based on what?

18 A I wouldn't think that was normal  
19 behavior. He was told several times to calm  
20 down, go back to his room.

21 Q Who told him to calm down?

22 A I did.

23 Q Okay. And after he said, this is my  
24 blood, what happened next?

25 A Deputy Atnip told Deputy Beebe to tase

Brandon Pickens  
December 12, 2012

Aldaba vs. Marshall County  
Case No. CJ-11-81

Page 29

1 him. Deputy Beebe went along with his, whatever  
2 procedure, steps they have to go on prior to the  
3 taser being fired. I don't remember those steps.

4 I don't have any training with a taser,  
5 so I really can't tell you.

6 Q Just tell me what you saw and what you  
7 heard.

8 A I believe Deputy Atnip had told Deputy  
9 Beebe twice to tase him.

10 Q Okay. What happened next?

11 A Deputy Beebe tased the man.

12 Q Where at?

13 A One of the prongs, I believe, hit him  
14 in the stomach. The other one didn't make a  
15 connection.

16 He screamed not to do that; don't do  
17 that again, and -- and turned and walked away,  
18 still bleeding.

19 Q What happened next?

20 A He had made -- made it near the  
21 cafeteria door to the hospital. I took his left  
22 arm -- we -- I placed hands on him, took his left  
23 arm, attempted an arm bar; unsuccessful. Deputy  
24 Atnip was there as well, along with Beebe. They  
25 were helping -- helping me take him to the

Brandon Pickens  
December 12, 2012

Aldaba vs. Marshall County  
Case No. CJ-11-81

Page 31

1 objection.

2 BY MR. BEAVER:

3 Q Go ahead and answer.

4 A The plan wasn't -- wasn't to hurt him  
5 any worse than -- than whatever medical condition  
6 he had.

7 Q Did you ever consider what effect him  
8 being shot with a taser and then subsequently  
9 wrestled to the ground against his will would  
10 have on his health?

11 A Can you repeat that again?

12 Q Did you ever consider what effect the  
13 shot with a taser and then wrestled to the ground  
14 against his will by the three of you would have  
15 on his health?

16 A No.

17 Q Is that a thought that you had before  
18 all of this happened?

19 A I wasn't trying to hurt him any worse,  
20 but, no.

21 Q You didn't consider that?

22 A No.

23 Q Okay. What happened next?

24 A We -- we got him on the ground, began  
25 to handcuff him. He vomited. I was on his left